

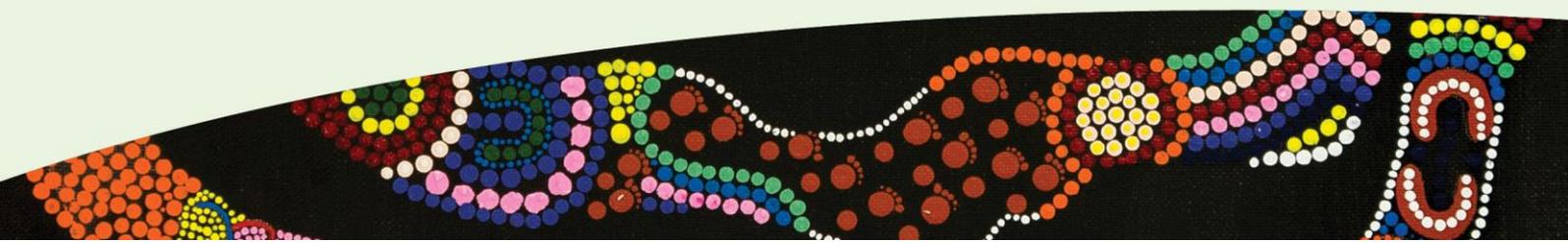


**ICS**  
ACT Inspector  
of Correctional  
Services

## ACT Inspector of Correctional Services

# REVIEW FRAMEWORK

[ics.act.gov.au](http://ics.act.gov.au)





*Rainbow Serpent* (above and cover detail)  
Marilyn Kelly-Parkinson of the Yuin Tribe (2018)

### **About this document**

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ACT Inspector of Correctional Services

We acknowledge the traditional custodians of the ACT, the Ngunnawal people.

We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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## 1. INTRODUCTION

The ACT Office of the Inspector of Correctional Services (OICS) was established by statute to provide independent oversight of ACT correctional and youth justice facilities.

This document sets out the framework which governs the review process used by OICS. It puts our work into context, against relevant legislation and within the ACT's obligations under the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT).

This framework explains the methodology and process used for 'healthy prison' reviews. It mainly applies to the review of adult correctional centres as, at the time of writing, the Inspector's oversight does not extend to youth justice.

## 2. OPERATING CONTEXT

### 2.1 Mandate/Purpose

OICS was established with the passage of the *Inspector of Correctional Services Act 2017* (ACT). This was in response to a number of critical incidents that had occurred at the Alexander Maconochie Centre (AMC) since it opened in 2009, in particular the death of Mr Steven Freeman at the AMC in May 2016. This prompted an independent inquiry (the Moss review) into his treatment and care. The ACT Government's response to the Moss review included a commitment to establish an independent Inspector of Correctional Services.

The focus of OICS is continual improvement and prevention of ill-treatment in the ACT's adult correctional centres and youth justice facilities. OICS provides oversight by conducting reviews of ACT correctional facilities and services, and reviewing critical incidents. By November 2019, OICS's function will expand to include oversight of Bimberi, the ACT youth justice facility.

### 2.2 Legislation

The functions of OICS are set out in section 17 of the *Inspector of Correctional Services Act 2017* (ACT) (ICS Act). They are to:

- examine and review correctional centres and correctional services
- review critical incidents at correctional centres or in the provision of correctional services, and
- report to the ACT Legislative Assembly on these reviews.

Critical incidents are defined under section 17(2) as 'any event in a correctional centre or in the provision of correctional services that involves any of the following:

- (a) the death of a person;
- (b) a person's life being endangered;
- (c) an escape from custody;
- (d) a person being taken hostage;
- (e) a riot that results in significant disruption to a centre of service;
- (f) a fire that results in significant property damage;
- (g) an assault or use of force that results in a person being admitted to hospital;
- (h) any other incident identified as a critical incident by a relevant Minister or relevant director-general.'

OICS has a Memorandum of Understanding with ACT Corrective Services regarding critical incidents, including notification, provision of information and conduct of reviews.

The powers of OICS are set out in section 19 of the ICS Act and include the power to:

- enter a correctional centre at any time and inspect any part of, or vehicle or equipment used at, a correctional centre
- inspect any document, including health records, relating to a detainee at the correctional centre or the provision of a correctional service
- speak to, or privately interview, detainees, staff and visitors at a correctional centre.

This includes the power to make unannounced visits to correctional centres. OICS also has the power to ask for information and documents under section 22 and can require attendance at an interview relevant to an examination or review under section 23 of the ICS Act. Failure to comply with either of these is an offence.

Australia became a State Party to the OPCAT in December 2017. The OPCAT is an international human rights treaty designed to strengthen the protection of persons deprived of their liberty. OICS has designed its review methodology to be consistent with the approach required by the OPCAT.

## 2.3 Vision, Mission and Values

### *Vision*

A transparent and accountable ACT correctional and youth justice system where the rights, interests and well-being of adult and young detainees are upheld, staff are safe and are valued, and everyone is treated with dignity and respect.

### *Mission*

Promoting the continuous improvement of ACT correctional centres and services for adults and young people, and in doing so increasing transparency, the protection of rights of all and the prevention of ill-treatment, mismanagement, unfairness and corruption.

### *Values*

Our work is driven by a number of key values and principles:

*Independence and impartiality:* we act with integrity and strive for a balanced and objective assessment of correctional centres and services. We contribute to and promote evidence-based practice in a correctional setting.

*Transparency:* we seek to bring transparency to closed environments and apply the same values to our own practice by reporting publicly on all examinations and reviews, and publishing our own key documents including our standards and framework.

*Research:* we draw on current research and innovative approaches to inform our reviews and assess what good practice looks like, and we approach our own research work with rigour in order to contribute to an evidence base to measure continual improvement of ACT correctional centres and services.

*Constructive engagement:* we seek to engage constructively with stakeholders, to understand diverse perspectives, value strengths, and collaborate in solutions. A key part of this approach is identifying and highlighting strengths and good practices in addition to areas requiring attention.

*Respect for the rights of all:* our oversight is centered on the experiences of detainees including particularly vulnerable groups, and promoting equality of outcomes for all. We recognise the key role that uniformed and non-uniformed staff play in a healthy prison and the challenging nature of this work. We recognise and value the diverse experiences and perspectives of stakeholders including detainees, staff, family and friends, professionals, community organisations and others.

### 2.4 Relationships with other oversight bodies

There are several entities with oversight of ACT correctional centres and services, including the ACT Human Rights Commission, ACT Ombudsman and ACT Official Visitors, that have powers to take complaints and /or resolve disputes at an individual level (in addition to other powers). ACT OICS does not handle individual complaints but rather focuses on systemic issues.

Section 31 of the ICS Act provides for OICS's cooperation with other entities in regard to avoiding unnecessary duplication of functions. We do this through, for example, referring complaints to other entities, and working with these entities to identify trends, patterns and system-wide issues.

### 2.5 Review Standards

OICS reviews are carried out against published criteria known as *ACT Standards*. The *ACT Standards* provide an independent tool for the Inspector to examine whether correctional centres and services in the ACT meet the 'healthy prison' test. The healthy prison test was devised by the World Health Organisation, and has been adopted as the basis for prison standards in other jurisdictions, including the United Kingdom.

The healthy prison test is based on four pillars:

- *Safety:* detainees, particularly the most vulnerable, are held safely. Staff and visitors feel safe
- *Respect:* everyone, particularly the most vulnerable detainees are treated with respect for their human dignity
- *Purposeful activity:* detainees engage in activity that is likely to benefit them
- *Rehabilitation and preparation for release:* detainees are supported to connect with their family and the community; supported to rehabilitate; and prepared for release back into the community.

Under each of these four pillars there are detailed standards, a non-exhaustive list of outcomes that may be indicative of that standard being met, and examples of sources of evidence that OICS may use in assessing that standard.

The *ACT Standards* have been tailored for our unique conditions, namely a small jurisdiction, operating under human rights legislation, with one adult correctional facility that detains both remand and sentenced prisons; women and men; low, medium and maximum security classification; and protection/non-protection detainees. The *ACT Standards* are based on international human rights standards and are informed by relevant ACT law and policy. This includes the *Corrections Management Act 2007* (ACT) (CM Act), the ACT Justice and Community Safety Directorate's *Human Rights Principles for ACT Correctional Centres* as well as operating policies and procedures at the AMC, which are notifiable instruments under the CM Act.

As Australia ratified the UN Optional Protocol to the Convention Against Torture (OPCAT) in 2017, the *ACT Standards* were prepared with the OPCAT's preventive approach to oversight in mind. This will provide a relevant standard against which this oversight of adult corrections can occur once the relevant provisions of the OPCAT are operational in the ACT.

### 3. THE REVIEW PROCESS

Custodial reviews are directed at the prevention of undesirable behaviour or outcomes. They are also an opportunity to commend and share good practice by highlighting the correctional facilities and services that are both humane and effective.

#### 3.1 Review programming

Section 18 of the *Inspector of Correctional Services Act 2017* (Cth) (ICS Act) provides timeframes for reviews. The minimum review cycle is:

|   | <i>Frequency of review</i>   | <i>Method of review</i>  |
|---|--|--|
| <b>Correctional centres</b> , which currently means: <ul style="list-style-type: none"> <li>- Alexander Maconochie Centre</li> <li>- Bimberi Youth Justice Centre (as of December 2019 at the latest).</li> </ul> | At least every two years   | This is conducted as a healthy prison review   |
| <b>Correctional services</b> , meaning the management, control or security of a correctional centre or the security, control, safety, care and welfare of a detainee at a correctional centre.                    | At least every two years   | This is conducted as a thematic review   |
| <b>Ad hoc visits</b> to correctional centres and correctional services.   | On an ad hoc basis   | This may be an announced or unannounced visit. Visits are not formally reported on but may gather information relevant to a formal review of a correctional centre or correctional service. If required, matters can be raised directly with JACS for follow up. |
| <b>Critical incidents</b> , as listed under s 17(2) of the ICS Act.   | On the inspector's own initiative or as requested by a relevant Minister or director-general | This may be conducted as a 'desk-top' review or a full review depending on the nature and circumstances of the incident  |

The methodology OICS uses for healthy prison reviews is outlined in this section. The methodology for critical incident reviews is outlined in the reports of these reviews. These can be found at <https://www.ics.act.gov.au/our-reports/critical-incident-reviews>.

## 3.2 Healthy Prison Review methodology

Reviews carried out by OICS are conducted against the *ACT Standards*. The methodology for conducting reviews is based on international best practice standards. These standards are articulated in documents such as the Association for the Prevention of Torture (APT)'s *Monitoring Places of Detention: a practical guide* (2004) and are reflected in practices developed and documented by international human rights monitoring bodies, including the UN Subcommittee for the Prevention of Torture and the Council of Europe's Committee for the Prevention of Torture.

### 3.2.1 The review team

The ACT Inspector of Correctional Services is the head of the review team. Other OICS staff form part of the review team. A key feature of preventive oversight is for an interdisciplinary team drawn from a range of professional backgrounds and with varied experience for the preparation of the review, the onsite review and the preparation of the report. Where appropriate, section 18(2) of the ICS Act requires the inspector to consult with people suitable to the cultural background or vulnerability of any detainee involved in a review.

### 3.2.2 Background research

As part of a thematic or 'healthy prison' style review, OICS gathers evidence from diverse sources to inform the review. This may include reports of other entities, including reviews, oversight bodies, the coroner and the media, and data from a range of sources. This allows OICS to identify some key issues to be reviewed. This research is summarised and provided to the members of the review team.

### 3.2.3 Community engagement

Correctional and youth justice environments do not exist in isolation: they sit within a broad community consisting of staff, community-based service providers, contractors, family and friends, oversight entities and others. For detaining authorities, building and maintaining connections with the community is an important aspect of rehabilitation and preparation for release.

As part of the Healthy Prison Review and thematic reviews ACT OICS seeks input from relevant oversight groups and community stakeholders. This takes place through inviting written submissions and/or through community forums and focus group discussions prior to the on-site component of the review. This complements ongoing engagement with other entities that oversight closed environments such as Official Visitors, the ACT Ombudsman and ACT Human Rights Commission.

### 3.2.4 Surveys

Findings based on surveys that OICS conduct with detainees, staff, and visitors are an essential part of the triangulated evidence base for the review. Questions are based on the *ACT Standards* and the surveys are confidential and anonymous.

The survey of detainees is conducted by OICS prior to the onsite review week. Members of the review team talk to detainees to explain the purpose of the survey and are also available for any detainee who requires assistance to complete the survey.

### 3.2.5 Data gathering

Prior to the onsite review, OICS reviews data on a range of matters relating to safety, activity and performance. This data must be provided

to OICS under section 22 of the ICS Act. It is used to inform the onsite review as well as a source of evidence for the review report.

### 3.2.6 Onsite review

During a review a number of sources of evidence are used to assess the correctional centre against the Standards. The sources of evidence gathered during the onsite review include individual interviews carried out with staff, detainees, visitors and other stakeholders, group discussions with detainees, documentation, and observation by the review team. Using a variety of sources allows the information to be triangulated to ensure it forms a credible and reliable evidence base from which to understand the correctional environment holistically.

### 3.2.7 Reporting

OICS is required to report on a review to the ACT Legislative Assembly within 6 months of completion. Prior to publication of the report, corrective services management and the responsible Minister are invited to correct any factual inaccuracies within the report.

In the report, each aspect under the four pillars of a healthy prison are given a rating using the system in the table below. This provides a guide as to which areas are performing well and which require improvement. These results are used to determine a rating for each of the four pillars as a whole, i.e. safety, respect, purposeful activity and rehabilitation and release. This provides an overall indication of the performance of the correctional centre and can provide a straightforward tool to track performance over time.

| Rating                       | Description   |
|------------------------------|---|
| <b>Good</b>                  | There is no evidence that outcomes are being adversely affected in any significant areas.   |
| <b>Reasonably good</b>       | There is evidence of adverse outcomes in only a small number of areas. For the majority, there are no significant concerns.   |
| <b>Not sufficiently good</b> | There is evidence that outcomes are being adversely affected in many areas or particularly in those areas of greatest importance to the well-being of detainees. If left unattended, these are likely to become areas of significant concern. |
| <b>Poor</b>                  | There is evidence that outcomes are seriously affected by current practices. Immediate remedial action is required.   |

### 3.2.8 Implementation

OICS engages in an ongoing dialogue with detaining authorities to follow-up on the response to and implementation of the findings and recommendations in the report. This may include visiting the correctional centre, discussions with detainees and staff or requesting documents. Actions taken to address findings and recommendations are subject to ongoing assessment by OICS, including through reporting in annual reports and follow up in subsequent Healthy Prison Reviews.